

United States District Court
for the
Southern District of Florida

The Smiley Company SPRL,)
Plaintiff,)
)
v.) Civil Action No. 23-22352-Civ-Scola
The Individuals, Partnerships, and)
Unincorporated Associations)
identified on Schedule "A",)
Defendants.)

**Order Requiring Discovery and Scheduling Conference and
Order Referring Discovery Matters to the Magistrate Judge**

This matter is before the Court upon an independent review of the record.
It is **ordered and adjudged** as follows:

1. The Plaintiff must forward a copy of this Order to every Defendant immediately upon the filing of a response to the complaint by a Defendant in this case. If a Defendant has removed this action from state court, the removing Defendant must immediately forward a copy of this Order to every party who has made an appearance in the state court action. Any party with a pending motion in the state-court action *must* separately refile the motion in this Court or the Court will not consider the motion.
2. Within 21 days of the filing of a response to the complaint by a Defendant in this matter, the parties must meet and confer regarding discovery and scheduling issues, as set out in Federal Rule of Civil Procedure 26(f) and Local Rule 16.1(b). If this case was removed from state court, the parties' discovery and scheduling conference must occur within 21 days of this Order.
3. Within 14 days of the parties' discovery-and-scheduling conference, the parties must file a joint-discovery-plan-and-conference report, as set forth in Federal Rule of Civil Procedure 26(f)(3) and Local Rule 16.1(b)(2).
4. **The parties are ordered to disregard the requirements of Local Rule 16.1 and Federal Rule of Civil Procedure 26(f)(3)(B) regarding any proposed deadlines or dates certain.** Instead, the parties are to direct their attention to the scheduling timelines set forth in Attachments "A" and "B" to this Order. The schedule set forth in Attachment "A" will be used if the parties believe the case is straight-forward and may benefit from an expedited scheduling track. In most other cases, the standard scheduling track in Attachment "B" will be used. The parties are therefore directed to advise the Court whether they would prefer to be assigned to the expedited (Attachment "A") or to the standard (Attachment "B")

track. If the parties believe that they have good reason to depart from either of these two tracks, or if the parties believe that this case is uniquely complex and requires significantly more time (as described in Local Rule 16.1(2)(C)), the parties **must** set out the reasons justifying a more protracted schedule along with a proposed schedule. Any such proposed schedule must be submitted in substantially the same format as the schedules presented in the Attachments to this Order with all proposed date or event deviations *italicized*. Regardless of any proposed changes, the dispositive motions deadline must be set no later than four months before the commencement of the proposed trial period and no sooner than two weeks after the close of all fact discovery. **Any failure to comply with the directions in this paragraph may result in the Court unilaterally setting the deadlines itself.**

5. General Motion Practice Before the District Judge. Where there are multiple Plaintiffs or Defendants, the parties must file **joint motions* and consolidated responses and replies** unless there are clear conflicts of position. If conflicts of position exist, the parties must explain the conflicts in their separate filings.

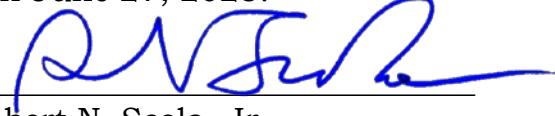
6. Magistrate Judge Referral. By virtue of 28 U.S.C. § 636 and the Magistrate Rules of the Local Rules of the Southern District of Florida, the Court refers all discovery matters in this case to United States Magistrate Judge Jonathan Goodman to take all necessary and proper action as required by law.

7. Settlement Conference Before Magistrate Judge. The parties may, at any time, file a motion requesting a settlement conference before Judge Goodman. The Court encourages the parties to consider a confidential settlement conference with Judge Goodman, especially if the parties believe there is a meaningful chance of reaching an early, amicable resolution of their dispute.

8. Discovery Motion Procedures. Judge Goodman will enter a separate order regarding his discovery procedures.

* If multiple Defendants have been served on different days, their deadlines to respond to the complaint will likely differ. Therefore, in order to file a joint motion to dismiss the complaint, for example, one or more Defendants may need an extension of time to respond to the complaint. To that end, those Defendants must confer with opposing counsel, as required by the Local Rules, and then seek relief from the Court regarding an appropriate extension. So long as the disparate service dates do not result in extensions that will unduly delay the proceedings, the Court will accommodate any request that facilitates the joint filing. If any Defendant has not yet been served by the time a responsive pleading is due, the parties must advise the Court as to whether further extensions may be warranted.

Done and ordered in Miami, Florida, on June 27, 2023.



Robert N. Scola, Jr.
United States District Judge

Attachment "A": Example Scheduling Timeline for Expedited Track Cases

weeks after entry of the scheduling order	
4 weeks	Deadline to join additional parties or to amend pleadings.
9 weeks	Deadline to file joint interim status report. Deadline to file Proposed Order Scheduling Mediation, setting forth the name of the mediator, and the date, time, and location of the mediation, consistent with the Order of Referral to Mediation (which immediately follows this scheduling order).
14 weeks	Deadline to complete all fact discovery. Deadline to submit joint notice indicating whether the parties consent to jurisdiction before the designated magistrate judge for purposes of final disposition. Deadline to exchange expert witness summaries/reports pursuant to Federal Rule of Civil Procedure 26(a)(2). Rebuttal disclosures are permitted and must conform to the deadline set forth in Federal Rule of Civil Procedure 26(a)(2)(D)(ii).
16 weeks	Deadline for the filing of all dispositive motions.
18 weeks	Deadline to complete mediation, consistent with the Order of Referral to Mediation (which immediately follows this scheduling order).
21 weeks	Deadline to complete all expert discovery.
8 weeks BEFORE calendar call	Deadline for the filing of pretrial motions, including motions in limine and <i>Daubert</i> motions.
4 weeks BEFORE the trial date	Deadline to file joint pretrial stipulation pursuant to Local Rule 16.1(e) and pretrial disclosures pursuant to Federal Rule of Civil Procedure 26(a)(3).
2 weeks BEFORE the trial date	Deadline to file proposed jury instructions (if the matter is set for a jury trial) or proposed findings of fact and conclusions of law (if the matter is set for a bench trial) pursuant to Local Rule 16.1(k).
33 weeks (approximate)	Two-week trial period commences (calendar call will be scheduled on the Tuesday before the trial period)

Attachment "B": Example Scheduling Timeline for Standard Track Cases

weeks after entry of the scheduling order	
5 weeks	Deadline to join additional parties or to amend pleadings.
14 weeks	Deadline to file joint interim status report.
25 weeks	Deadline to file Proposed Order Scheduling Mediation, setting forth the name of the mediator, and the date, time, and location of the mediation, consistent with the Order of Referral to Mediation (which immediately follows this scheduling order).
31 weeks	<p>Deadline to complete all fact discovery.</p> <p>Deadline to submit joint notice indicating whether the parties consent to jurisdiction before the designated magistrate judge for purposes of final disposition.</p> <p>Deadline to exchange expert witness summaries/reports pursuant to Federal Rule of Civil Procedure 26(a)(2). Rebuttal disclosures are permitted and must conform to the deadline set forth in Federal Rule of Civil Procedure 26(a)(2)(D)(ii).</p>
33 weeks	Deadline for the filing of all dispositive motions.
35 weeks	Deadline to complete mediation, consistent with the Order of Referral to Mediation (which immediately follows this scheduling order).
40 weeks	Deadline to complete all expert discovery.
8 weeks BEFORE calendar call	Deadline for the filing of pretrial motions, including motions in limine and <i>Daubert</i> motions.
4 weeks BEFORE the trial date	Deadline to file joint pretrial stipulation pursuant to Local Rule 16.1(e) and pretrial disclosures pursuant to Federal Rule of Civil Procedure 26(a)(3).
2 weeks BEFORE the trial date	Deadline to file proposed jury instructions (if the matter is set for a jury trial) or proposed findings of fact and conclusions of law (if the matter is set for a bench trial) pursuant to Local Rule 16.1(k).
49 weeks (approximate)	Two-week trial period commences (calendar call will be scheduled on the Tuesday before the trial period)